

Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM Docket No. 92-33
CENTRAL FLORIDA EDUCATIONAL)	
FOUNDATION, INC.)	File No. BPED-881207MA
Channel 202C3)	
Union Park, Florida)	
BIBLE BROADCASTING NETWORK, INC.)	File No. BPED-890412MJ
Channel 202C2)	
Conway, Florida)	
SOUTHWEST FLORIDA COMMUNITY)	File No. BPED-891127MC
RADIO, INC.)	
Channel 202C2)	
Conway, Florida)	
MIMS COMMUNITY RADIO, INC.)	File No. BPED-891127MD
Channel 202C1)	
Oak Hill, Florida)	
HISPANIC BROADCAST SYSTEM, INC.)	File No. BPED-891128ME
Channel 202C3)	
Lake Mary, Florida)	
For Construction Permit)	
For a, Noncommercial,)	
Educational New FM Station)	

**ORIGINAL
FILE**

TO: The Honorable Edward J. Kuhlmann
Administrative Law Judge

MOTION TO DELETE CONTINGENT ENVIRONMENTAL ISSUE

Bible Broadcasting Network ("BBN") by its attorneys hereby respectfully petitions the Presiding Administrative Law Judge to delete the contingent issue 1 as specified in the Hearing Designation Order, DA 92-224, released March 10, 1992 ("HDO"), with respect to the application of BBN. In support whereof, the following is shown.

In the HDO, the Commission specified the following contingent environmental issue:

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If a final environmental impact statement is issued with respect to the above-mentioned applicants, in which it is concluded that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by Sections 1.1301-1.1319 of the Commission's Rules.

On April 9, 1992, BBN filed an amendment to its application responding to the Commission's concerns.

On May 8, 1992 the Assistant Chief, Audio Services Division issued a letter to the Presiding Administrative Law Judge, copy attached as attachment A which requested that the contingent environmental issue specified as to BBN be eliminated from the Hearing Designation Order upon acceptance of a conditional grant.¹

¹ The condition requested by the Audio Services as follows:

The Automatic Program Test Provisions of 47 C.F.R. § Section 73.1620 do not apply in this case. A formal request for program test authority must be filed in conjunction with FCC form 302, application for license, before program tests will be authorized. This request should be made at least 10 days prior to the date on which program tests are desired to commence. This request must contain documentation which demonstrates compliance with the following special operation condition:

The permittee shall certify that an agreement is in effect requiring all stations to reduce power or cease operations as necessary to assure worker safety with respect to radiofrequency radiation when maintenance is to be performed at the site.

Documentation demonstrating compliance with the ANSI radiofrequency radiation limit may be submitted in advance of the filing of FCC Form 302. The Commission's staff will review it for compliance and respond by letter stating whether automatic PTA has been reinstated.

Attachment B is BBN's certification that it accepts the condition set forth in the Assistant Chief's letter.

WHEREFORE, BBN respectfully requests the Presiding Judge to eliminate the contingent environmental issue (issue 1) as it relates to BBN.

Respectfully submitted,

BIBLE BROADCASTING NETWORK, INC.

By: 

Gary S. Smithwick
Its Attorney

SMITHWICK & BELENDIUK, P.C.
1990 M Street, N.W.
Suite 510
Washington, D.C. 20036
(202) 785-2800

July 15, 1992

ATTACHMENT A

Rec 5/12/42

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

8 MAY 1952

IN REPLY REFER TO:
8920-MJF

Judge Edward J. Kuhlmann
Office of Administrative Law Judges
Federal Communications Commission
Washington, DC 20554

In re: Bible Broadcasting network, Inc.
Conway, Florida
File No. BPED-890412MJ
MM Docket No. 92-33

Dear Judge Kuhlmann:

The Chief, Audio Services Division, has received a petition for leave to amend submitted by the above-captioned applicant. This pleading, submitted pursuant to 47 C.F.R. § 73.3522(b), addresses the contingent environmental issue specified in the Hearing Designation Order.

Upon examination of the enclosed pleading, the Bureau finds that there will be no adverse environmental impact if the measures to protect humans from nonionizing radiation are carried out as proposed. To ensure that result, the Bureau requests that a grant of construction permit or other authorization be subject to the following condition:

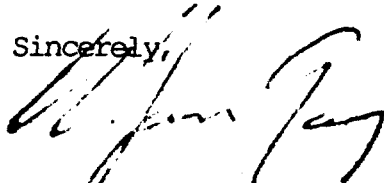
THE AUTOMATIC PROGRAM TEST PROVISIONS OF 47 C.F.R. § SECTION 73.1620 DO NOT APPLY IN THIS CASE. A FORMAL REQUEST FOR PROGRAM TEST AUTHORITY MUST BE FILED IN CONJUNCTION WITH FCC FORM 302, APPLICATION FOR LICENSE, BEFORE PROGRAM TESTS WILL BE AUTHORIZED. This request should be made at least 10 days prior to the date on which program tests are desired to commence. This request must contain documentation which demonstrates compliance with the following special operation condition:

The permittee shall certify that an agreement is in effect requiring all stations to reduce power or cease operations as necessary to assure worker safety with respect to radiofrequency radiation when maintenance is to be performed at the site.

Documentation demonstrating compliance with the ANSI radiofrequency radiation limit may be submitted in advance of the filing of FCC Form 302. The Commission's staff will review it for compliance and respond by letter stating whether automatic PTA has been reinstated.

Upon acceptance of the above condition, the Bureau requests that the contingent environmental issue specified as to this applicant be eliminated from the Hearing Designation Order.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. Jan Gay", written over the word "Sincerely,".

W. Jan Gay, Assistant Chief
Audio Services Division
Mass Media Bureau

Enclosure

cc: Jim Shook, Esq.
Smithwick & Belendiuk, P.C.
May & Dunne, Chartered
Palm Bay Public Radio, Inc.
Gammon & Grange, P.C.
James L. Oyster, Esq.
Stephen C. Simpson, Esq.

ATTACHMENT B

BIBLE BROADCASTING NETWORK

BBN HEADQUARTERS

Box 1818
Chesapeake, VA 23320
(804)547-9421

CERTIFICATION

Bible Broadcasting Network, Inc. ("BBN") is an applicant for a new noncommercial educational FM station at Conway, Florida. Pursuant to Commission letter dated May 8, 1992, (Ref. 8920-MJF), BBN certifies that an agreement is in effect requiring all stations to reduce power or cease operations as necessary to assure worker safety with respect to radiofrequency radiation when maintenance is to be performed at the transmitter site.

Executed this 14 day of July, 1992.

BIBLE BROADCASTING NETWORK, INC.

By: 

Lowell L. Davey
President



CERTIFICATE OF SERVICE

I, Lisa M. Volpe, a legal assistant in the law firm of Smithwick, & Belendiuk, P.C., certify that on this 15th day of July 1992, copies of the foregoing were mailed, first class, postage paid to the following:

Honorable Edward J. Kuhlmann*
FCC, Administrative Law Judge
2000 L Street, N.W., Rm 220
Washington, DC 20554

James Shook, Esquire*
FCC, Hearing Branch
Enforcement Division
Mass Media Bureau
2025 M Street, N.W. Rm 7212
Washington, DC 20554


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Radio, Inc.

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Castelton, VA 22716
Counsel for
Hispanic Broadcast System,
Inc.

*By Hand



Lisa M. Volpe